

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

S. PARKER CONSTRUCTION, INC.,

Plaintiff,

vs.

SUNTEX HOMES, LLC, *et al.*,

Defendants.

Case No. 2:08-cv-01439-JCM-GWF

**ORDER**

Motion to Strike and Enter Default (#61)

This matter is before the Court on Plaintiff S. Parker Contruction, Inc. and Third-Party Defendants Sean Barry, Shane Barry and Scott Barry's Motion to Strike the Answers of Defendants Suntex Homes, LLC, Sierra Ridge Ventures, LLC and Nu-Co-BB-I, LLC and Motion to Enter Defaults and Strike Sierra Ridge Ventures, LLC's Counterclaim and Third-Party Complaint (#61), filed July 9, 2010.

Movants state that Defendants Suntex Homes, LLC, Sierra Ridge, LLC and Nu-Co-BB-I, LLC have not participated in this litigation since their former counsel moved to withdraw as counsel in May 2008. (*Id.*) Since that time, the three limited liability company defendants have been without counsel and represented themselves *in proper* person in this action. Citing that a corporation may only appear in federal court through licensed counsel, *U.S. v. High Country Broad. Co., Inc.*, 3 F.3d 1244, 1245 (9<sup>th</sup> Cir. 1993), the movants argue that the Court should strike the Defendants' answers and enter default because Defendants have been without representation for over two years. (#61).

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1           Upon review of the record in this action, the Court is unable to locate any documents related to  
2 the withdraw of counsel for Defendants Suntex Homes, LLC, Sierra Ridge, LLC and Nu-Co-BB-I, LLC  
3 in May 2008. As a result, the Court is unable to determine if the parties in this matter were provided  
4 with addresses where Defendants Suntex Homes, LLC, Sierra Ridge, LLC and Nu-Co-BB-I, LLC could  
5 be served pleadings related to this case. Plaintiff has not provided proof that the present motion to  
6 strike and enter default has been served upon Defendants Suntex Homes, LLC, Sierra Ridge, LLC and  
7 Nu-Co-BB-I, LLC. (*See* #61). Accordingly,

8           **IT IS HEREBY ORDERED** that Plaintiff S. Parker Contruction, Inc. and Third-Party  
9 Defendants Sean Barry, Shane Barry and Scott Barry's Motion to Strike the Answers of Defendants  
10 Suntex Homes, LLC, Sierra Ridge Ventures, LLC and Nu-Co-BB-I, LLC and Motion to Enter Defaults  
11 and Strike Sierra Ridge Ventures, LLC's Counterclaim and Third-Party Complaint (#61) is **denied**  
12 **without prejudice**. Movants may renew the present motion upon proof of service of the motion on  
13 Defendants Suntex Homes, LLC, Sierra Ridge Ventures, LLC and Nu-Co-BB-I, LLC or upon  
14 demonstration that, after diligent efforts, the movants cannot locate Defendants for the purpose of  
15 service.

16           **IT IS FURTHER ORDERED** that the hearing on this matter presently scheduled for Tuesday,  
17 August 31, 2010 at 10:30 a.m. is **vacated**.

18           DATED this 26th day of August, 2010.

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21           GEORGE FOLEY, JR.  
22           United States Magistrate Judge  
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